

JOSEPH P. RUSSONIELLO
United States Attorney
BRIAN J. STRETCH (CASBN 163973)
Chief, Criminal Division
STACEY P. GEIS (CASBN 181444)
JONATHAN SCHMIDT (CABSBN 230646)
Assistant United States Attorneys
450 Golden Gate Ave., 11th Floor
San Francisco, CA 94102
(415) 436-6776 (tel)
(415) 436-7234 (fax)
Jonathan.Schmidt@usdoj.gov

RONALD J. TENPAS
Assistant Attorney General
Environment and Natural Resources Division
United States Department of Justice
RICHARD A. UDELL
Senior Trial Attorney
Environmental Crimes Section
P.O. Box 23985
L'Enfant Plaza Station
Washington, DC 20004
(202) 305-0361 (tel)
(202) 514-8865 (fax)
Richard.Udell@usdoj.gov

Attorneys for Plaintiff
United States of America

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE:)	CR 07-90552 MISC VRW (JCS)
)	CR 8-0160 SI
)	
ZHONG BIN LIN)	UNITED STATES RESPONSE TO
)	EMERGENCY APPLICATION FOR
(MATERIAL WITNESSES))	TRAVEL ORDER FOR ZONG BIN LI
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The United States Attorney and the Assistant Attorney General for the
Environment and Natural Resources Division, by and through undersigned counsel,
hereby file this response to the Emergency Application for Travel Order for Zong Bin Li.

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2 I. Background

3 Zong Bin Li is one of six material witnesses in the Cosco Busan case that have
4 been held as such since January 3, 2008, pursuant to Title 18, United States Code,
5 Sections 3142 and 3144. Five of the material witnesses including Mr. Li have moved for
6 release or, in the alternative, depositions pursuant to Rule 15 of the Federal Rules of
7 Criminal Procedure. The taking of depositions in this case have been delayed due to
8 various developments. Most significantly, in May 2008, while interviewing the material
9 witnesses for Rule 15 depositions set for that month, the United States obtained for the
10 first time new information and evidence indicating that important ship records, including
11 key documents for the defense as well as the prosecution, were inaccurate and/or had
12 been fabricated, forged and/or falsified. As a result of the new information, the Ship's
13 operator was charged in a second superseding indictment returned on July 22, 2008. The
14 United States understands and appreciates that the material witnesses have been in the
15 United States for an extended period and the hardship that presents. However, as the
16 Court has observed, some of these witnesses share some responsibility for the eleventh
17 hour disclosure of the new evidence and information and some were not previously
18 truthful. As far as the government is aware, Mr. Li was not involved in the false
19 statements or obstruction.

20 II. Argument

21 The United States is sympathetic to the request made by Mr. Zong Bin Li, and
22 does not oppose the motion for Mr. Li's temporary return home to China if certain
23 information can first be obtained and assurances provided. The United States' favorable
24 response is based on the following material facts, among others: (1) So far as the
25 government is aware, Mr. Li was not involved and did not participate in the alleged false
26 statements or obstruction that occurred after the allision and are the subject of the second
27 superseding indictment; (2) Mr. Li had a comparatively minimal role in the offense; and
28 (3) Neither defendant objects to his motion.

1 Since receiving the emergency application, the United States has made efforts to
2 obtain certain information and assurances so that it can be in a better position to
3 accommodate Mr. Li's request and respond to the Court.

4 The principal issue concerns the uncertainty of the logistics of Mr. Li's return to
5 the United States from China. For example, what procedures, if any, must be followed in
6 China to leave the country? Is there certain documentation that the Chinese government
7 requires? If so, what is that documentation, and how quickly can it be obtained? Is there
8 any other reason, foreseen or unforeseen, that the Chinese government could prevent his
9 return?¹ Additionally, how long will it take to parole Mr. Li back into the United States
10 and would he be able to return in time for his Rule 15 deposition or trial?²
11 Additionally, the government has asked Mr. Li's counsel for additional information
12 substantiating the exigencies alleged in his motion.

13 The United States is seeking to obtain the information and assurances set forth
14 herein so as to better advise the Court.

24 ¹ The United States spoke with Mr. Howden, Mr. Li's attorney, who had spoken
25 with an attorney at the Chinese consulate. Mr. Howden indicated that the Chinese consulate,
26 while not objecting to the temporary return to China, could not commit either way as to whether
27 there would be any barriers to Mr. Li's return. The United States has left calls with the Chinese
consulate as well, but has not received a return call as of the filing of this response.

28 ² The United States has found in other cases that the parole process typically
requires approximately thirty (30) days or more.

1 DATED: August 26, 2008_
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Respectfully submitted,

4 JOSEPH P. RUSSONIELLO
United States Attorney
5 BRIAN J. STRETCH
Chief, Criminal Division
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RONALD J. TENPAS
Assistant Attorney General
Environment and Natural Resources
Division
United States Department of Justice

7 By: _____/s/
8 STACEY P. GEIS
Assistant United States Attorney
9

By: _____/s/
RICHARD A. UDELL
Senior Trial Attorney
Environmental Crimes Section
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